IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision : May 5, 2010

Crl. Appeal No.233-DB of 2004

Ranjit Singh @ Rana ...Appellant

Versus

State of Punjab ...Respondent

Present : Ms. Divya Sharma, Advocate, for the appellant.

Mr. D.S.Brar, DAG, Punjab, for the respondent-State.

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE JASWANT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

HEMANT GUPTA, J.

The present appeal is directed against the judgment dated 27.01.2004 passed by the learned Addl. Sessions Judge (Ad hoc), Amritsar, whereby it convicted the appellant for the offence punishable under Section 302 read with Section 365 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.5000/- for the offence punishable under Section 302 IPC. In default of payment, the appellant was directed to further undergo rigorous imprisonment for a period of six months. The appellant was also sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1000/- for the offence punishable under

Section 365 IPC. In default of payment of fine, the appellant was directed to further undergo rigorous imprisonment for a period of one month.

Sahil aged about 11½ years is the deceased. The prosecution case was set in motion on the basis of statement (Ex.PL) of Suresh son of late Shri Janak Raj, father of the deceased made to Inspector Prabhdev Singh, SHO P.S.Raja Sansi, Amritsar on 17.7.2001 at about 9.30 PM. It has been stated that he is working as Fire Foreman at Airport Raja Sansi and has two sons and two daughters. Sahil, aged about 11½ years, is younger to his two daughters and a student of 6th Class in Cambridge School, Majitha Road, Amritsar. Due to vacations in School, Sahil remains at home. It was further stated that he went to his duty as usual from home and at about 5.00 PM, when he returned to home, his son Sahil was not at home. He came to know that he had gone for changing tube of his cycle towards Airport Gate but has not returned home till now. Thereafter, when he enquired about his son, he came to know that two boys namely Harinder Singh @ Dainy son of Baldev Singh and Jinderpal Singh son of Tarlok Chand have coaxed his son Sahil. He has been searching his son, but has not met till now. He believed that his son has been coaxed by these two boys.

The dead body of Sahil was recovered on 18.7.2001 at 7.30 AM. During the course of inquest proceedings, Pardeep Kumar and Parveen Kumar, uncles of the deceased, identified the dead body. The Investigating Officer has not seen any apparent injury on the dead body of the deceased, but it was stated that the cause of death was by strangulation by pressing neck with rope like thing. One cycle of children make Ranger, one pair of Kainchi Chappal (‘V’ shape) and one hoe were recovered near the dead body.

The post-mortem on the dead body of the deceased was carried out by PW-7 Dr. Amarjit Singh on 18.7.2001 at 9.30 AM. He has found bluish coloured bruise present on inner aspect of upper and lower lip in its middle 1/3rd opposite incisor teeth; ligature mark 10 cm long and 2 x 1.5 cm wide reddish brown colour abraded ligature mark on front and right side of neck at the level of thyroid cartilage. Ligature mark was extending from left side of thyroid cartilage to right side of neck 5.5 cm below angle of lower jaw and was horizontally placed. On dissection of neck, sub cutanious connective tissue under the ligature mark was found ecchymosed; two linear shape reddish brown coloured abrasions having size 2.8 x 0.5 cm and 0.4 x 0.3 cm placed 0.3 cm on front of neck at the level of thyroid cartilage, 2 cm below ligature mark. All the injuries were found to be ante mortem in origin and the cause of death was asphyxia as a result of strangulation and smothering, which was sufficient to cause death in the ordinary course of nature. In his cross-examination, it was admitted that the rigor mortis sets in within 12 hours of the death and maintains itself for next 12 hours. Thereafter, it starts wearing off. In response to a specific question that the death had taken place more than 24 hours prior to 18.7.2001 at 9.30 AM, when the post-mortem was conducted, he stated that it is not correct. It was stated that the duration between death and post-mortem is less than 24 hours.

After completion of investigation, five accused namely Harinder Singh @ Daini, Jinder Pal, Ranjit Singh @ Rana, Baldev Raj and Tarlok Chand were made to stand trial on the basis of evidence of last seen, extra judicial confession, foot moulds of the accused and the disclosure statements under Section 27 of the Evidence Act.

The evidence of last seen was provided by PW-6 Parveen Kumar and PW-12 Rajesh Kumar. PW-9 Tejpal Singh was examined to prove the extra judicial confession made by Harjinderpal, Daini and Rana on 19.7.2001 at about 7.00 AM. The learned trial Court did not believe the evidence of last seen by PW-6 Parveen Kumar and PW-12 Rajesh Kumar and also disbelieved the extra judicial confession recorded by PW-9 Tejpal Singh, as he was a resident of the same colony, where the father of the deceased residing and in fact, his colleague. On the basis of such evidence, the learned trial Court acquitted the four accused. However, the appellant was convicted by the learned trial Court relying upon foot print (mould) and recovery of hanker-chief and socks on the disclosure statement of the appellant. PW-14 ASI Iqbal Singh has lifted moulds i.e. one of right foot and two of left foot, from the place where the dead body of the deceased was recovered, converted the same into parcels and taken into possession vide memo Ex.PQ. On 19.7.2001, the samples were entrusted to ASI Palwinder Singh for depositing the same in Forensic Science Laboratory, Chandigarh. Accused Ranjit Singh @ Rana was arrested by Inspector Prabhdev Singh on 19.7.2001 and were produced before the Tehsildar, Ajnala on 21.7.2001, where his sample mould of foot were taken. On the basis of report Ex.PX, the mould of left naked foot 'C' lifted from the place of occurrence was found to tally with the sample mould print Ex.P1 of the appellant. The learned trial Court did not believe the argument raised by the learned counsel for the appellant that the mould of left foot was taken after his arrest.

The learned trial Court has also taken into consideration the disclosure statement Ex.PT made by the appellant on 21.7.2001. On the basis of such statement, hanker-chief Ex.P4 and socks Ex.P5 were

recovered and seized vide memo Ex.P2. Ex.PY is the site plan from where the dead body was recovered, whereas Ex.P2/2 is the site plan from where the disclosed articles were recovered. From the said articles, it was found that possibility of the ligature strangulation as a result of socks could not be ruled out. Thus, both the circumstances i.e. left foot print lifted from the place of occurrence and recovery of hanker-chief and socks, were found sufficient to prove the allegations against the appellant.

Learned counsel for the appellant has vehemently argued that the prosecution has miserably failed to complete the chain of circumstances, so as to lead to no other inference except that the appellant was the person responsible for causing death of deceased Sahil. Apart from the contradictions in the statements of PW-8 Suresh, father of the deceased, PW-6 Parveen Kumar and PW-12 Rajesh Kumar in respect of the persons, who accompanied the deceased, it is argued that the report of the Forensic Science Laboratory only compare the left naked foot on crime mould C-1 from the left naked foot of suspect Ranjit Singh, whereas the left and right naked feet on crime moulds C-2 and C-3 from left and right naked feet on test moulds stated to be of suspects, it was reported that it has not been possible to link them together. It is contended that the conviction on the sole evidence of left naked foot tallying with sample foot would not be sufficient for the lack of corroboration, when the evidence of such foot print is said to be of a weak nature. It is contended that if left foot was found comparable, then by necessary implication, the right foot should also match. It is contended that the report is categorical that it is not possible to link the crime moulds with the sample moulds, therefore, the conviction of the appellant on the basis of comparison of left naked foot itself without any corroboration, is not sustainable. It is argued that socks and hanker-chief

said to be recovered on the disclosure statement of the appellant are not sufficient to link the use of such articles in the commission of crime. There is no mark on such hanker-chief and socks of having been used in the crime. Such articles are commonly available.

The prosecution has failed to explain that socks and hanker-chief are that of the accused or that of the deceased. The deceased was wearing Kainchi chappal (V-shape), which cannot be worn with socks and that socks recovered is not said to be of the appellant. Though the prosecution has tried to lead evidence that in fact there was demand of ransom of Rs.6 lac, which is sought to be proved by documents Exs.PB, PC and PE, but the said documents shows that telephone calls have been made to telephone No.33756 at 7.31 PM and 7.15 PM on 17.7.2001. It is not proved by the prosecution that the calls were made by the appellant. The calls were made from Atwal STD/PCO of Shri B.S.Atwal, but no attendant of PCO has been examined to the fact that the calls were made using the said PCO by the appellant. The factum of ransom calls is not disclosed in the first statement. The explanation that the father was searching for the child and the calls were received by Jalandhar Singh remains unsubstantiated, as Jalandhar Singh has not been examined as a witness. Therefore, there is no motive to link the appellant with the crime. The recovery of hanker-chief and socks is not of such nature, which is linked with the commission of crime alone, whereas sample foot print of one foot is not sufficient to complete the chain of circumstances, which may lead to a finding that the crime was committed by the appellant and none else.

In view of the above, we find that the conviction of the appellant for the offence punishable under Section 302 read with 365 IPC is

not made out, as the circumstances do not conclusively lead to the commission of crime by the appellant.

Therefore, we acquit appellant Ranjit Singh @ Rana of the charges framed against him by granting him benefit of doubt. He shall be set at liberty forthwith, if not required in any other case.

(HEMANT GUPTA)
JUDGE

May 5, 2010
Vimal

(JASWANT SINGH)
JUDGE